

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Mark Kirby and Jane W. Kirby	)	C/A No.: 3:23-659-MGL-SVH
(deceased),	)	
	)	
Plaintiffs,	)	
	)	
	)	
vs.	)	ORDER
	)	
	)	
State of South Carolina; SC State	)	
Accident Fund; Henry C.	)	
McMaster; and Amy Cofield,	)	
	)	
Defendants.	)	

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Plaintiff Mark Kirby filed this case on his own behalf and on behalf of his deceased wife Jane W. Kirby, proceeding pro se. Pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Civ. Rule 73.02(B)(2)(e) (D.S.C.), this matter has been assigned to the undersigned for all pretrial proceedings.

While individuals may represent themselves pro se in federal court, a person may not ordinarily appear pro se in the cause of another person or entity. *See Pridgen v. Andresen*, 113 F.3d 391, 392–93 (2d Cir 1997) (finding that a pro se litigant may not represent a corporation, estate, or partnership); *Oxendine v. Williams*, 509 F.2d 1405, 1407 (4th Cir. 1975) (“[W]e consider the competence of a layman representing himself to be clearly too limited to allow him to risk the rights of others.”). One exception to the rule prohibiting pro se representation of another is when a pro se person, who is the executor of an

estate, represents the estate and the estate has no creditors or other beneficiaries. *See Witherspoon v. Jeffords Agency, Inc.*, 88 F. App'x 659 (4th Cir. 2004) (unpublished) (remanding the matter for further proceedings to ascertain whether there were any creditors involved); *Malone v. Nielson*, 474 F.3d 934, 937 (7th Cir. 2007) (finding that where an administrator of an estate is not the sole beneficiary or where the estate has creditors, then the administrator may not represent the estate pro se in federal court). Plaintiff does not provide any information concerning the executor of the estate or the estate's beneficiaries or creditors. Accordingly, additional information is required to determine if Plaintiff may appear pro se on behalf of the Estate of Jane W. Kirby. Plaintiff is directed to answer the attached special interrogatories within 21 days from the date of this order. Plaintiff's answers should be filed with this court.

IT IS SO ORDERED.

February 22, 2023  
Columbia, South Carolina



Shiva V. Hodges  
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Mark Kirby and Jane W. Kirby (deceased),	)	C/A No.: 3:23-659-MGL-SVH
	)	
	)	
Plaintiffs,	)	
	)	
	)	
vs.	)	SPECIAL INTERROGATORIES
	)	
	)	
State of South Carolina; SC State Accident Fund; Henry C. McMaster; and Amy Cofield,	)	
	)	
	)	
Defendants.	)	

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To determine if Mark Kirby may represent the Estate of Jane W. Kirby, pro se, Mark Kirby shall answer the following questions as completely as possible in the space provided. If additional space is needed, attach a separate sheet of paper to this form and indicate which answers are continued on the separate sheet. ***BE AWARE THAT YOUR ANSWERS MUST BE COMPLETELY TRUTHFUL AND ARE GIVEN UNDER PENALTY OF PERJURY.***

1. Provide the probate case number and county for the Estate.

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2. Who is the Executor of the Estate? \_\_\_\_\_.

2. Are you a beneficiary of the Estate? \_\_\_\_\_

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3. Are there any other beneficiaries of the Estate? If so, please provide those beneficiaries names and address. \_\_\_\_\_

4. Are there any creditors of the Estate? If so, please provide those creditors names and address. \_\_\_\_\_

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Plaintiff is directed to attach to these interrogatories a copy of any orders or letters from the Probate Court.

*I declare under penalty of perjury that the foregoing is true and correct.*

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

*Signature of Plaintiff*